

REMARKS

Claims 1-18 and 21-22 remain in this application. Claims 1 and 10 have been amended. Claims 19-20 have been deleted. Claims 21-22 have been added. Reconsideration and review of the application is respectfully requested.

Before addressing the merits of the rejections based on the prior art, a brief description of the present invention is provided. The present invention is directed to an apparatus for scanning radio frequency identification (RFID) data from one or more RFID tags or transponders. The present invention stems from the limitation that a conventional RFID reader, such as a hand-held RFID reader, requires the operator to hold and actuate the reader during a reading operation. That is, after an RFID tag has been scanned, the operator must then put the RFID reader down to free the hand and fingers for other manual tasks. This repeated grasping and returning of the RFID reader reduces the productivity of the operator. See page 3 of the present application. The present invention, in a nutshell, provides a method and system to provide a "hands free" or fingers-free RFID reader, thereby leaving the operator's hand free for other tasks.

More particularly, the present invention includes a hands- or fingers-free RFID reader that enables an operator to read or identify items having RFID tags without using the hands or fingers. The invention comprises a housing containing at least a portion of an RFID scanner. The housing can be affixed to a portion of an operator's body, such as a hand or wrist, using a strap or other like attachment. The RFID scanner further includes an antenna, a radio transmitter/receiver coupled to the antenna, and a processor adapted to control operation of the radio transmitter/receiver. The housing may further contain a power source adapted to provide power for the RFID scanner. The RFID scanner may also be adapted to communicate the RFID data to an external system, such as via a wireless or infrared connection. Finally, the RFID scanner is adapted to read RFID tags automatically as they come into proximity with the scanner, without physical intervention by the operation. In one embodiment, the RFID scanner automatically reads the RFID tags by periodically transmitting an interrogation signal to

determine if an RFID tag has been brought into proximity. Accordingly, the present invention provides a hands- or fingers-free system for reading RFID tags, thereby increasing the productivity of the operator of the present system.

In the present Office Action, the Examiner has withdrawn the previous claim rejections under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,036,093 to Schultz and/or under 35 U.S.C. §103(a) as being unpatentable over Schultz alone or in view of U.S. Patent No. 5,610,387 to Bard et al. However, the Examiner has now rejected the claims based on new grounds by combining Schultz and/or Bard with U.S. Patent No. 5,382,784 to Eberhardt. Specifically, the Examiner has rejected Claims 1-7 and 10-16 under 35 U.S.C. §103(a) as being unpatentable over Eberhardt in view of Schultz. The Examiner has further rejected Claims 8-9, 17-20 under §103(a) as being unpatentable over Eberhardt in view of Schultz and further in view of Bard. These rejections are respectfully traversed.

With respect to independent Claims 1 and 10, the Examiner acknowledges by the withdrawal of the previous grounds of rejections that none of the previously cited references disclose or suggest each and every limitation of the claims (i.e., system adapted for reading RFID tags). See paragraph 2 of the present Office Action and the Applicants' response on July 16, 2003. To make up for this deficiency, the Examiner cited a new reference, Eberhardt. See paragraph 2. The problem with citing Eberhardt as a reference is that Eberhardt only discloses a dual function reading head having an RFID scanner and a bar-code scanner that must be **manually** actuated. That is, in order to provide Eberhardt's dual reading reader with its dual reading functions, Eberhardt requires (or teaches the need of):

a manually actuatable switch arrangement mounted on the housing [of the dual reading head] for selectively actuating one of the bar-code tag reader and the radio frequency tag reader depending on the type tag to be read. Preferably, the housing is gun-shaped and the switch arrangement is a trigger-like . . . with two ON positions, one for each of the readers."

See Abstract of Eberhardt; see also Figs. 1, 2, and 4 and Summary of the Invention of Eberhardt. Thus, because Eberhardt addresses (or teaches) a completely different problem of providing dual reading functions at the expense of needing an operator to manually select one of the two reading functions or heads, there is no motivation to combine Eberhardt with the other references in this Office Action to teach the features in the present amended Claims 1 and 10 of automatically scanning an RFID tag without manual intervention by the operator (or without using the operator's fingers).

The Applicants respectfully believe that the motivation to combine could only come from the advantages taught and suggested in the present application; thus proper grounds for an obviousness rejection are absent with regard to the claims in the present application (i.e., hindsight reconstruction). Accordingly, the combination of Eberhardt with Schultz or Bard (both of which are directed to readers adapted for reading only bar codes as discussed in background section of this application) is improper to reject amended Claims 1 and 11. See page 2 of the present application. Moreover, by its teaching of "a manually actuatable switch arrangement . . . for selectively actuating one of the bar-code tag reader and the radio frequency tag reader," Eberhardt actually teaches away from the present invention's hands- or fingers-free RFID reader.

In particular, amended Claim 1 should be allowable for its recitations of an apparatus for scanning radio frequency identification (RFID) data from at least one RFID tag, comprising:

a housing containing at least a portion of an RFID scanner;

**means for affixing the housing to a portion of an operator's body; and**

**means for automatically scanning said at least one RFID tag without manual intervention by the operator.**

Similarly, amended Claim 10 should be allowable for its recitations of a system for collecting radio frequency identification (RFID) data (RFID) data, comprising:

a housing containing at least a portion of an RFID scanner;

**means for affixing the housing to a portion of an operator's body; and**

at least one RFID tag;

**wherein, the RFID scanner is adapted to scan said at least one RFID tag when disposed in proximity to said housing; and**

**wherein said RFID scanner automatically scans said at least one RFID tag without manual intervention by the operator.**

Accordingly, the Applicants respectfully request the withdrawal of the rejections based on Eberhardt in combination with the other references (i.e., Schultz and Bard). Claims 2-9 depend either directly or indirectly on Claim 1. Claims 11-18 depend either directly or indirectly on Claim 10. The dependent claims should be allowed for at least the reason that they depend on an allowable base claim (i.e., either Claim 1 or Claim 10).

In addition, it appears to the Applicants that the newly cited reference (Eberhardt) in the present Office Action was published and available to be considered at the time of the first Office Action dated March 18, 2003. Accordingly, the Applicants object to the piecemeal examination of the present application. See MPEP §§ 706.04; see also 707.07(g) (i.e., "Great care should be exercised in authorizing such a rejection" and an examination "should reject each claim on all valid grounds available" to avoid piecemeal examination).

New Claims 21-22 have been added. Claim 21 depends on Claim 1 and Claim 22 depends on Claim 10. The support for these claims can be at least found in page 6,

Serial No. 09/929,461  
February 20, 2004  
Page 9

lines 8-12 of the present application. Additionally, it is respectfully submitted that the limitations in these new claims are neither disclosed in nor suggested by the cited references.

In view of the foregoing, the Applicants respectfully submit that Claims 1-18 and 21-22 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. To the extent it would be helpful to placing this application in condition for allowance, the Applicants encourage the Examiner to contact the undersigned counsel and conduct a telephonic interview.

To the extent necessary, Applicants also petition the Commissioner for a two-month extension of time, extending to March 9, 2004, the period for response to the Office Action dated October 9, 2003. The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0639.

Respectfully submitted,



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